

Legislative Analysis



ALLOW AND REGULATE USE OF OPIOID ANTAGONISTS

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House Bill 5404 with committee amendment
Sponsor: Rep. Hugh Crawford

House Bill 5405 without amendment
House Bill 5406 with committee amendment
House Bill 5407 with committee amendment
Sponsor: Rep. Anthony G. Forlini

Committee: Judiciary
Complete to 5-22-14

A SUMMARY OF HOUSE BILLS 5404-5407 AS REPORTED BY COMMITTEE 5-15 -14

The bills would mandate that certain emergency medical response vehicles carry opioid antagonists and have personnel trained in their use, modify who is allowed to possess opioid antagonists, and provide immunity from civil liability in certain circumstances.

The bills define "opioid antagonist" as naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal Food and Drug Administration for the treatment of drug overdose.

The bills also define "opioid-related overdose" as "a condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death, that results from the consumption or use of an opioid or another substance with which an opioid was combined or that a layperson would reasonably believe to be an opioid-related overdose that requires medical assistance."

House Bills 5404, 5505, and 5407 are tie-barred to each other and to Senate Bill 721, which has the same content as House Bill 5406. A bill cannot become law unless any other bill to which it is tie-barred also is enacted.

House Bill 5404 would amend the Public Health Code (MCL 333.20919 and 333.20965) by mandating that a medical control authority create and implement protocols to ensure that each life support vehicle that is dispatched and responding to provide medical first response life support, basic life support, or limited advanced life support is equipped with opioid antagonists, and that all emergency services personnel are properly trained to administer opioid antagonists. The bill also states that liability would not be imposed upon certain medical personnel for administering an opioid antagonist except for an act or omission that was the result of "gross negligence or willful misconduct." Except as otherwise provided in this provision, the protocols would have to be created and implemented within 12 months of the bill's effective date. Further, beginning three years

after the bill's effective date, a medical control authority, at its discretion, could rescind or continue the protocol it adopted.

(Under the code, the Department of Community Health designates a medical control authority as the medical control for emergency medical services for a particular geographic region.)

House Bill 5405 would add two new sections to the Public Health Code (MCL 333.7422 and 333.17744c, proposed) to specify that a person who acts in good faith and with reasonable care while administering an opioid antagonist to an individual believed to be suffering an opioid-related overdose would be immune from criminal prosecution or sanction under any professional licensing act.

The bill would also specify that a person who complies with Section 17744b (which would be added by HB 5407) would not be in violation of Article 7 of the code, entitled "Controlled Substances," with regard to the prescribing, dispensing, possessing, or administering an opioid antagonist as authorized by the new provision.

House Bill 5406 would add a new section to the Good Samaritan Law, PA 17 of 1963, which relieves certain persons from civil liability while rendering emergency care in certain situations. The bill would specify that an individual who has a "good faith" belief that another individual is suffering the immediate effects of an opioid-related overdose and administers an opioid antagonist to that individual would not be liable in a civil action for damages resulting from the administration of the opioid antagonist. The exemption does not apply under either of the following:

- If the individual who administers the opioid antagonist is a physician, physician's assistant, registered nurse, or licensed practical nurse and the opioid antagonist is administered in a hospital.
- If the conduct of the individual administering the opioid antagonist "is willful or wanton misconduct."

House Bill 5407 would amend the Public Health Code (MCL 333.1106 et al.) by adding the definitions of "opioid antagonist" and "opioid-related overdose" (as stated above) and by requiring the Department of Community Health to annually publish by February 1, a report containing certain information on opioid-related overdoses.

The bill also would authorize a prescriber to issue a prescription for and a dispensing prescriber or pharmacist to dispense an opioid antagonist to any of the following:

- An individual patient at risk of experiencing an opioid-related overdose.
- A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose. The name of the person receiving the prescription would be inserted as the name of the patient.
- A person *other than an individual* that:
 - acts at the direction of the prescriber or dispensing prescriber;

- stores the opioid antagonist in compliance with Part 177 of the code (Pharmacy Practice and Drug Control);
- dispenses or administers as opioid antagonist under a valid prescription issued to an individual or a patient; and,
- performs the requirements under this provision without charge or compensation.

A prescriber who issues a prescription for or a dispensing prescriber or pharmacist who dispenses an opioid antagonist would not be liable in a civil action for a properly stored and dispensed opioid antagonist that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the opioid antagonist.

In addition, since the bill would allow a prescriber to issue a prescription to a person who was not the prescriber's own patient, or to a relative or friend of the person with a substance use disorder, several provisions in the code that restrict prescribing drugs to only the prescriber's patient or requiring the prescription to contain the patient's full name would be amended to comport with the new provisions.

(Note: According to the National Institute on Drug Abuse, *Opioids are medications that relieve pain. They reduce the intensity of pain signals reaching the brain and affect those brain areas controlling emotion, which diminishes the effects of a painful stimulus. Medications that fall within this class include hydrocodone (e.g., Vicodin), oxycodone (e.g., OxyContin, Percocet), morphine (e.g., Kadian, Avinza), codeine, and related drugs. Heroin is an opioid.*

FISCAL IMPACT:

House Bill 5404 as introduced has no direct state fiscal implications for the Department of Community Health. The bill may have a fiscal impact on local units of government that provide or contract for emergency medical services, related to the bill's requirements to equip each life support vehicle with opioid antagonists, and to train personnel to administer opioid antagonists.

BRIEF DISSUSSION:

Heroin and other narcotic use in the state has been increasing over the past several years, and as a result, so have drug overdoses. Reportedly, there were more deaths from drug overdoses in 2011 than from vehicle accidents. Medications known as "opioid antagonists" have the ability to reverse the effects of a narcotic overdose. At least 18 states and the District of Columbia have laws allowing medical professionals to prescribe and administer such drugs (primarily, naloxone, or Narcan). Apparently, there have been tens of thousands of successful overdose reversals. It has been recommended that Michigan follow the lead of these other states and allow for doctors to prescribe; pharmacists to dispense; and first responders, family members, medical personnel, friends of addicts, and other individuals such as staff at residential treatment facilities to administer naloxone to a person in the throes of a drug overdose. Supporters say the

ability to save a person from an otherwise deadly overdose may enable the person to live long enough to kick the addiction and once again live a productive life.

POSITIONS:

The following entities testified in support or indicated support for the bills on 5-8-14:

Families Against Narcotics (HB 5404 & 5407)
Representative Bill LaVoy
Michigan Society of Addiction Medicine
Michigan Association of Family Physicians
Michigan Association of Medical Examiners
Grand Rapids Red Project
Michigan Pharmacists Association
Michigan State Psychiatric Association
Deputy Sheriff's Association of Michigan
The Oakland County Sheriff
Prosecuting Attorneys Association of Michigan (HB 5405-5407)
Michigan State Medical Society
Michigan College of Emergency Physicians

The Michigan Department of Community Health indicated a neutral position on HB 5404 and 5407. (5-14-14)

The Michigan Association of Ambulance Services indicated a neutral position on the bills. (5-8-14)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.